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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/964,801	09/28/2001	Toshiro Tsuchida	P21330	2858

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EXAMINER

MARKS, CHRISTINA M

ART UNIT	PAPER NUMBER
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3713

DATE MAILED: 05/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/964,801

Applicant(s)

TSUCHIDA ET AL.

Examiner

C. Marks

Art Unit

3713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 September 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-59 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-59 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Claim Objections

Claim 8 objected to because of the following informalities: The claim does not have a proper antecedent basis for the term action sequence axis in line 6. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 7, 9, 17, 24, 31, 38, 45, 52, and 59 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 7, 9, 17, 24, 31, 38, 45, 52, and 59, the usage of the variables n and N renders the claim(s) indefinite because one of ordinary skill in the art cannot ascertain exactly what is being claimed by the variables. The claim is indefinite in that it does not explicitly and clearly define what exactly can be displayed and changed and at the time and range which this can be changed. Furthermore, it is not clear to one of ordinary skill in the art what the current display will be changed to and what is possible to display in relation to the action sequence.

Therefore, for examination purposes, the claims will be examined as best understood by the Examiner.

Art Unit: 3713

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 11-17 and 39-45 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claims are directed to a computer program are not statutory because such claimed computer programs do not define any structural and functional interrelationships between the program and other claimed aspects of the invention that permit the programs functionality to be realized. To be statutory, the program must be embodied in a tangible medium to define the functional interrelationship between the program and the rest of the computer.

For examination purposes only, the Examiner will evaluate the claims as if they were encoded in a tangible computer-readable medium and thus a computer element which defines structural and functional interrelationships between the computer program and the rest of the computer which permit the computer program's functionality to be realized, and are thus statutory.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

Art Unit: 3713

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-4, 11-14, 18-21, 25-28, 32-35, 39-42, 46-49, 53-56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Perrin et al. (Runequest).

Perrin et al. disclose a gaming method wherein strike rank and action sequence are based upon specific information about a character (page 16, Column 1). Perrin et al. disclose that in any combat the edge is the chance of striking first thus setting the pattern for the battle (page 16, Column 1). Perrin et al controls a battle between at least one player and at least one enemy by calculating data to determine an action sequence based on specific information (page 16). Each character has a strike rank calculated based upon specific information regarding the character and based upon the strike rank calculated for each character, an action sequence will be determined. The information regarding the character relates to an action the character is to perform as weapon length is considered. The information also relates to characteristics applied to each character at the current moment such as size and status derived from the game such as movement and surprise (page 16).

The game of Perrin et al. is not disclosed as a computer game. Perrin et al. disclose a method for a game wherein players use data relating to each player to create battles. It is notoriously well known in the art that any gaming method can be embodied into a computer version and it is obvious to one of ordinary skill in the art to do so. One of ordinary skill in the art would be motivated to computerize the game disclosed by Perrin et al. in order to provide the players with a versatile gaming atmosphere wherein computations regarding who goes first in a

battle could be automated and calculated by a computer instead of a the player. By providing this computer version, error would be reduced and the speed of play would be increased and players would not become bored with the time it would take to compute the data relating to the battle sequence of the characters. Likewise, it would be obvious that the program could be embodied on a computer-readable data storage medium for use wherein a player could access the game on any number of machines to increase portability. Further, by incorporating the method disclosed by Perrin et al., a video game processing method would inherently result that would incorporate all the limitations of Perrin et al. into a method that would automatically calculating action sequences. In order for the system of Perrin et al. to be automated and embodied as a program, a video game apparatus would inherently be used that includes a storage device for storing the program, a computer to execute the program and a display for the player to be able to identify the characters and the battle situation. Further, as a last function of computerizing Perrin et al., it would have been obvious to one of ordinary skill in the art to allow the computers running the game to be networked in order to provide the players with a chance to battle other players in a live environment thus adding a greater entertainment value to the game as the players would be able to interact with other players while having a virtually unlimited number of possible values thus increasing the excitement and variety available to the game.

Though Perrin et al. is only disclosed as a method for a game, it is notoriously well known in the art that any method of a game can easily be incorporated into a computer program, as a program is merely a number of steps as defined by a method. Likewise, any alterations as to the type of computer program used, including embodying it on a computer readable storage or processing apparatus, as well as networking the computer into other computers for uses such as

an online gaming environment would have been obvious to one of ordinary skill in the art to the method of Perrin et al.

Claims 5, 15, 16, 22, 23, 29, 30, 36, 37, 43, 44, 50, 51, 57, and 58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Perrin et al. (Runequest) in view of Yoshikawa et al. (US Patent No. 6,347,994).

What Perrin et al. disclose has been discussed above and is incorporated herein.

Though Perrin et al. disclose a method for determining action sequence for characters in a video game; Perrin et al. do not disclose displaying the information to the player upon calculation.

Yoshikawa et al. disclose a game wherein battles occur between a plurality of monster and player characters (Abstract, lines 3-6). Yoshikawa et al. also disclose displaying the determined action sequence on the screen (Column 8, lines 18-19). Yoshikawa et al. display the enemy characters along an axis to indicate the sequence of action when displayed on the screen (FIG 6, reference 250). This display on the axis includes the enemy character in the current action and the enemy characters for the next number of specific turns (FIG 6, reference 250). Yoshikawa et al. also disclose a specific window on the screen wherein the action sequence will be displayed (FIG 6, references 210, 220, 230).

It would have been obvious to one of ordinary skill in the art to incorporate the display of the battle sequence as disclosed by Yoshikawa et al. into the method of Perrin et al. One of ordinary skill in the art would be motivated to do so because as disclosed by Yoshikawa it provides a simple interface for displaying the name and strengths of the opponents to provide the

player with organized data (Column 11, lines 40-45). Further, one would be motivated to display the information in order to provide a simpler interface to the players wherein icons would be used to designate the battle sequence and thus reduce confusion of who goes when.

Claims 6, 8, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Perrin et al. (Runequest) in view of Yoshikawa et al. (US Patent No. 6,347,994) in view of Peterson et al. (Champions: The Super Hero Role Playing Game).

What Perrin et al. and Yoshikawa et al. disclose has been discussed above and is incorporated herein.

Yoshikawa et al. disclose placing the enemy characters in a battle sequence along an axis but do not disclose placing all characters along an axis to indicate battle sequence. Further, Yoshikawa et al. do not disclose using an axis wherein the time and action sequences intersect to indicate the timing of each action.

Peterson et al. also disclose a method for determining an action sequence between characters based upon specific information about the character (Combat). Peterson et al. also disclose a chart wherein player characters and enemy characters (based upon SPEED value) are ranked and placed upon an axis to indicate the sequence of action. Further, Peterson et al. also include a time axis to indicate which segment each character can perform in and by finding the intersection of the time axis and the action sequence action (CHARACTER'S SPEED CHART), the timing of each action can be determined (page 51). Each action opportunity is displayed with a marker in order to display opportunities of attacking the enemy at these points (CHARACTER'S SPEED CHART).

It would have been obvious to one of ordinary skill in the art at the time of invention to display a chart as disclosed by Peterson et al. into the system of Perrin et al. Perrin et al. discloses many of the same factors relating to segments as Peterson et al. and also disclose that, like Peterson et al., a characters speed is used in determining when the character can attack. One of ordinary skill in the art would be motivated to do this in order to present the player with a quick reference based upon their characteristics as to when they will be attacking. By providing the reference, the player will be more informed about how their characteristics relate to the order in which they attack.

Claims 7, 9, 17, 24, 31, 38, 45, 52, 59, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Perrin et al. (Runequest) in view of Yoshikawa et al. (US Patent No. 6,347,994) in view of Peterson et al. (Champions: The Super Hero Role Playing Game).

What Perrin et al., Yoshikawa et al., and Peterson et al. disclose has been discussed above and is incorporated herein.

Regarding claims 7, 9, 17, 24, 31, 38, 45, 52, 59 as best understood by the Examiner, Peterson et al. allows the action sequence for the current as well as future battles to be displayed on the screen. This data includes the current action as well as actions a set number of turns away. Though Peterson et al. do not disclose that a player prompt can change the display to a specific segment; it would have been obvious to one of ordinary skill in the art to allow the player to request information for a certain segment since the information for all segments is readily available to the user as displayed by Peterson et al. This would be of benefit to the Perrin

et al. system as the Perrin et al. system also deals with a number of segments wherein a battle sequence has been establish for each of these segments and thus a display allowing the player to get information regarding the battle for a specific sequence would be an asset to the player as in all role playing games, the more information you can gain, the better advantage you will be given, thus such a feature would be an attractive feature to a player.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US Patent No. 5,390,937: Battle method where time is a factor incorporated in determining action sequences. Each monster and player has a time that is associated with an attack and used to determine the sequence in which attacks will occur. Also includes a timeline to disclose how this calculation is made.

US Patent No. 4,738,451: Multi-player game where players compete to move through a maze while cooperating at the same time and have attributes such as longevity and speed used to determine who gets the extra items stored throughout the maze.

US Patent No. 6,540,606: Battle sequence with a timing method and a random number generator to determine battle sequence among the characters.

Werewolf: The Apocalypse Introductory Kit: Battle sequences based on value relating to character attributes. All attacks are resolved in the order of initiative making the action sequence based upon the strength of the character.

Vampire: The Masquerade: All characters have an initiative based upon a certain number of characteristics and the initiative value is used to determine who goes first in a battler.

Gauntlet: Each character is given characteristics that affect battle outcome and ultimately the goals of the game.

Wizard Crown: Battle method game that displays an axis of those enemies along the bottom of the screen and the display changes as the fighting continues.

Age of Rifles: Variable turn initiative function allows the computer to compare the capability of units as well as the strategic situation to determine which side will go first. Allows, a side to move twice in a row. Further, Age of Rifles is an example of a computer-based game based upon a gaming concept and method.

Dungeon Master's Guide: Role Playing Battle game where initiative of characters based upon character attributes is used to determine who will go first.

Advanced D &D Player's Handbook: Details the attributes of characters and how they affect the initiative used as disclosed by the master's guide.

Advanced Dungeons and Dragons Computer Product: Discloses a computer version of the gaming method disclosed by Advanced D & D. The concept of D & D has been transformed from a method disclosed with a number of books to a computer gaming program wherein the calculations are automated and the players can have a visual representation of the method game.

Art Unit: 3713

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Marks whose telephone number is (703)-305-7497. The examiner can normally be reached on Monday - Friday (7:30AM - 4:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, V. Martin-Wallace can be reached on (703)-308-1148. The fax phone numbers for the organization where this application or proceeding is assigned are (703)-872-9302 for regular communications and (703)-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)-308-1148.

cmm

cmm

April 29, 2003

Michael O'Neill

**MICHAEL O'NEILL
PRIMARY EXAMINER**